PP

v.

YAZID SUFAAT & ORS

COURT OF APPEAL, PUTRAJAYA
ABU SAMAH NORDIN JCA
AZAHAR MOHAMED JCA
MOHD ZAWAWI SALLEH JCA
[CRIMINAL APPEAL NO: W-05-141-05-2013]
27 JANUARY 2014

CRIMINAL LAW: *Penal Code - Section 130G(a) - Security offences - Promoting act of terrorism intended as a threat to members of public in Syria - Act of terrorism planned within Malaysia with intention to execute it outside Malaysia - Security Offences (Special Measures) Act 2012 (SOSMA), ss. 2 & 4 - Whether action or threat committed within Malaysia - Penal Code, s. 4 - Whether includes offence committed outside Malaysia - Whether procedure in SOSMA applies to trial of any person charged with committing any security offence under Chapter VIA Penal Code - Whether invoking provisions in SOSMA amounts to an abuse of process of court*

CRIMINAL LAW: *Security Offences (Special Measures) Act 2012 - Section 4 - Security offences - Offences under s. 130G(a) Penal Code - Whether SOSMA enacted to deal with action or threat within Malaysia - Whether procedure in SOSMA applies to trial of any person charged with committing any security offence under Chapter VIA Penal Code - Whether invoking provisions in SOSMA amounts to an abuse of process of court*

This was an appeal by the prosecution against the decision of the High Court in acquitting and discharging the respondents from the charges proferred against them. The respondents were arrested under s. 4 of the Security Offences (Special Measures) Act 2012 ('SOSMA') and were separately charged for security offences under s. 130G(a) of the Penal Code ('the Code'). The first respondent was charged for promoting an act of terrorism and that act was regarded as being intended as a threat to the members of the public in Syria. The second and third respondents were charged for abetting the first respondent. The second respondent was not present during this appeal as there was no foreseeable likelihood of securing her presence after she was acquitted by the High Court. However, this appeal proceeded against the first and third respondents ('respondents'). The

A respondents contended that SOSMA was enacted pursuant to art. 149 of the Federal Constitution to deal with action or threat committed within Malaysia by any substantial body of persons from inside or outside Malaysia. The High Court ruled that the charges against the respondents were related to acts of terrorism
B committed outside Malaysia and since SOSMA was enacted to deal with action or threat committed within Malaysia, it clearly did not apply to the respondents' trial for offences relating to acts of terrorism committed outside Malaysia. The High Court further ruled that should the prosecution proceed with the said charges
C against the respondents by invoking the provisions in SOSMA, it would be an abuse of the process of court. Thus, the trial court had set aside and/quashed or stayed permanently the charges against the respondents. Hence, this appeal by the prosecution.

D **Held (allowing appeal; setting aside order of the High Court) Per Abu Samah Nordin JCA delivering the judgment of the court:**

(1) An offence under s. 130G(a) of the Code is one of the offences relating to terrorism referred to in Chapter VIA of the
E Code. Offences under the said Chapter are classified as "security offences" by virtue of s. 2 of the SOSMA. SOSMA merely regulates the trial of security offences. (paras 9 & 10)

(2) An act of terrorism is a transnational phenomenon. It had no
F territorial limits and transcends national borders. For instance, an act of terrorism may be planned or hatched within Malaysia with an intention to execute it outside Malaysia. The intention of SOSMA is, among others, to prevent Malaysia from being used as a terrorist haven. (para 23)

G **(3)** The charges against the respondent were in respect of acts of terrorism committed within Malaysia. Section 4 of the Code states that any offence under Chapters VI and VIA of the Code includes offence committed outside Malaysia. Section 130B(5)(b) of the Code states that "a reference to the public
H includes a reference to the public of a country or territory other than Malaysia". (paras 20 & 21)

(4) Section 2 of SOSMA states that the procedure laid down in SOSMA applies to trial of any person charged with committing
I any security offence under Chapter VIA of the Code. The learned judge therefore erred in holding that it would be an abuse of the process of court to invoke the provisions in

SOSMA for the purpose of the respondents' trial for security offences under s. 130G(a) or s. 130G(a) read with s. 109 of the Code. (para 24)

Bahasa Malaysia *Translation Of Headnotes*

Ini adalah rayuan pendakwaan terhadap keputusan Mahkamah Tinggi dalam melepaskan dan membebaskan responden-responden daripada pertuduhan yang dikenakan terhadap mereka. Responden-responden telah ditangkap di bawah s. 4 Akta Kesalahan Keselamatan (Langkah-Langkah Khas) 2012 ('SOSMA') dan dituduh secara berasingan bagi kesalahan keselamatan di bawah s. 130G(a) Kanun Keseksaan ('Kanun'). Responden pertama dituduh menggalakkan perlakuan perbuatan keganasan dan perbuatan tersebut dianggap sebagai diniatkan untuk mengugut orang awam di Syria. Responden-responden kedua dan ketiga dituduh bersubahat dengan responden pertama. Responden kedua tidak hadir semasa rayuan ini kerana dia tidak dapat dikesan selepas dibebaskan oleh Mahkamah Tinggi. Walau bagaimanapun, rayuan ini diteruskan terhadap responden-responden pertama dan ketiga ('responden-responden'). Responden-responden menghujahkan bahawa SOSMA digubal mengikut perkara 149 Perlembagaan Persekutuan untuk mengendalikan tindakan atau ancaman yang dibuat dalam Malaysia oleh mana-mana kumpulan besar orang sama ada di dalam atau luar Malaysia. Mahkamah Tinggi juga memutuskan bahawa jika pihak pendakwaan meneruskan pertuduhan terhadap responden-responden dengan membangkitkan peruntukan di bawah SOSMA, ia adalah suatu penyalahgunaan proses mahkamah. Maka, mahkamah perbicaraan telah mengenepikan dan/membatalkan atau menggantung pertuduhan terhadap responden-responden. Oleh itu, pendakwaan merayu ke mahkamah ini.

Diputuskan (membenarkan rayuan; mengenepikan perintah Mahkamah Tinggi)
Oleh Abu Samah Nordin HMR menyampaikan penghakiman mahkamah:

(1) Suatu kesalahan di bawah s. 130G(a) Kanun adalah kesalahan yang dirujuk dalam Bab VIA Kanun. Kesalahan di bawah Bab tersebut diklasifikasikan sebagai "kesalahan keselamatan" berikutan s. 2 SOSMA. SOSMA hanya mengawal perbicaraan kesalahan keselamatan.

(2) Perbuatan keganasan adalah fenomena "transnasional". Ia tidak mempunyai halangan kawasan dan membatasi sempadan nasional. Sebagai contoh, perbuatan keganasan mungkin

A dirancang dalam Malaysia dengan niat untuk melaksanakannya di luar Malaysia. Niat SOSMA adalah, antara lain, untuk menghalang Malaysia daripada digunakan sebagai tempat perlindungan pengganas.

B **(3)** Pertuduhan terhadap responden-responden adalah berkaitan dengan perbuatan keganasan yang dilakukan dalam Malaysia. Seksyen 4 Kanun memperuntukkan bahawa sebarang kesalahan di bawah Bab-Bab VI dan VIA Kanun merangkumi kesalahan yang dibuat di luar Malaysia. Seksyen 130B(5)(b) C Kanun memperuntukkan bahawa "suatu rujukan kepada orang awam termasuk rujukan kepada orang awam sesebuah negara atau wilayah selain daripada Malaysia".

(4) Seksyen 2 SOSMA memperuntukkan bahawa prosedur di D bawah SOSMA terpakai kepada perbicaraan bagi sesiapa yang dituduh dengan melakukan kesalahan keselamatan di bawah Bab VIA Kanun. Yang arif hakim, dengan itu, terkhilaf dalam memutuskan bahawa terdapatnya penyalahgunaan proses mahkamah kerana SOSMA dibangkitkan bagi kehendak E perbicaraan responden-responden untuk kesalahan keselamatan di bawah s. 130G(a) atau s. 130G(a) dibaca bersama s. 109 Kanun.

Case(s) referred to:

Dato' Seri Anwar Ibrahim v. PP [2010] 9 CLJ 625 FC ***(refd)***

F *Karpal Singh & Anor v. PP [1991] 2 CLJ 1458; [1991] 1 CLJ (Rep) 183 SC* ***(refd)***

People's Union for Civil Liberties & Anor v. Union of India AIR 2004 SC 456 ***(refd)***

Legislation referred to:

G Criminal Procedure Code, s. 177A
Federal Constitution, arts. 5, 8, 149
Penal Code, ss. 4, 109, 130B(2), (5)(b), 130G(a)
Security Offences (Special Measures) Act 2012, ss. 2, 4, 12, 13

For the appellant - Abdul Wahab Mohamad (Mohamad Hanafiah Zakaria, Ishak Mohd Yusof, Mohd Farizul Hassan Bakri, Choo Hueay Ting & Nadia Mohd Izhar with him); DPPs

H

For the 1st & 3rd respondents - Amer Hamzah Arshad (Edmund Bon Tai Soon, Wan Hidayati Nadirah Wan Ahmad Nasir, Nur Zatulitri Md Yusof, Farida Mohamad, New Sin Yew & Chan Yen Hui with him); M/s Zatul, Hilda & Partners

I

Reported by Kumitha Abd Majid

JUDGMENT

Abu Samah Nordin JCA:

[1] This is an appeal by the Public Prosecutor against the decision of the High Court, Shah Alam allowing a joint application by the respondents by way of a notice of motion:

(i) to set aside and/quash or stay permanently the charges against them in exercise of the court's inherent jurisdiction; and

(ii) that the respondents be acquitted and discharged of the said charges.

[2] The respondents were arrested on 7 February 2013 under s. 4 of the Security Offences (Special Measures) Act 2012 ("SOSMA") and were separately charged before the Magistrate's Court, Ampang for security offences under s. 130G(a) of the Penal Code ('the Code'). Their cases were later transferred for trial before the High Court, Shah Alam pursuant to s. 177A of the Criminal Procedure Code. Section 12 of the SOSMA provides that all security offences shall be tried by the High Court.

[3] Yazid bin Sufaat ('first respondent') was charged for committing a security offence under s. 130G(a) of the Penal Code, namely for promoting the commission of a terrorist act with the intention of advancing an ideological cause which is punishable with imprisonment for a term which may extend to 30 years and shall also be liable to fine. The charge against him reads:

> Bahawa kamu antara 1 haribulan Ogos hingga 20 haribulan Oktober 2012 jam antara 8.30 pagi dan 10.30 pagi, di rumah beralamat DL11, Taman Bukit Ampang, Lorong Mutiara 2, Lembah Jaya, Ampang di dalam Daerah Ampang, dalam Negeri Selangor Darul Ehsan, dengan diketahui oleh kamu menggalakkan pelakuan perbuatan keganasan dengan niat untuk memajukan suatu tujuan ideologi, dan perbuatan tersebut boleh semunasabahnya dianggap sebagai diniatkan untuk menggugut orang awam di Syria dan oleh yang demikian, kamu telah melakukan suatu kesalahan di bawah seksyen 130G(a) Kanun Keseksaan (Akta 574) dan boleh dihukum di bawah seksyen yang sama.

[4] Halimah binti Hussein ('second respondent') was charged for abetting the first respondent in promoting the commission of the said terrorist act, which is an offence under s. 130G(a) of the Code read with s. 109 of the said Code. The charge against her reads:

A Bahawa kamu antara 1 haribulan Ogos hingga 20 haribulan Oktober 2012 jam antara 8.30 pagi dan 10.30 pagi, di rumah beralamat DL11, Taman Bukit Ampang, Lorong Mutiara 2, Lembah Jaya, Ampang, di dalam Daerah Ampang, dalam Negeri Selangor Darul Ehsan, telah bersubahat dengan Yazid bin Sufaat dengan diketahui oleh kamu menggalakkan pelakuan perbuatan keganasan di mana perbuatan itu dilakukan dengan niat untuk memajukan suatu tujuan ideologi dan perbuatan tersebut boleh semunasabahnya dianggap sebagai diniatkan untuk menggugut orang awam di Syria di mana kesalahan tersebut telah dilakukan atas sebab-sebab persubahat kamu, dan oleh yang demikian, kamu telah melakukan suatu kesalahan yang boleh dihukum di bawah seksyen 130G(a) Kanun Keseksaan (Akta 574) dibaca bersama seksyen 109 Kanun yang sama.

[5] Muhamad Hilmi bin Hasim ('third respondent') was similarly charged for abetting the first respondent in promoting the commission of the said terrorist act at the same place and time, which is an offence under s. 130G(a) of the Code read with s. 109 of the said Code. He was charged as follows:

Bahawa kamu antara 1 haribulan Ogos hingga 20 haribulan Oktober 2012 jam antara 8.30 pagi dan 10.30 pagi, di rumah beralamat DL11, Taman Bukit Ampang, Lorong Mutiara 2, Lembah Jaya, Ampang, di dalam Daerah Ampang, dalam Negeri Selangor Darul Ehsan, telah bersubahat dengan Yazid bin Sufaat dengan diketahui oleh kamu menggalakkan pelakuan perbuatan keganasan di mana perbuatan itu dilakukan dengan niat untuk memajukan suatu tujuan ideologi dan perbuatan tersebut boleh semunasabahnya dianggap sebagai diniatkan untuk menggugut orang awam di Syria di mana kesalahan tersebut telah dilakukan atas sebab-sebab persubahat kamu, dan oleh yang demikian, kamu telah melakukan suatu kesalahan yang boleh dihukum di bawah seksyen 130G(a) Kanun Keseksaan (Akta 574) dibaca bersama seksyen 109 Kanun yang sama.

[6] In this judgment, reference to the 'respondents' means the first and third respondents only unless otherwise stated.

[7] We felt it necessary to reproduce the abovesaid charges against the respondents as the High Court's decision in setting aside and/quashing the charges and acquitting them of the said charges was based on the ingredients of the offence as stipulated in the charges.

[8] What is a 'terrorist act'? The term 'terrorist act' is defined in s. 130B(2) of the Penal Code:

130B(2): For the purposes of this Chapter, "terrorist act" means an act or threat of action within or beyond Malaysia where:

(a) the act or threat falls within subsection (3) and does not fall within subsection (4);

(b) the act is done or the threat is made with the intention of advancing a political, religious or ideological cause; and

(c) the act or threat is intended or may reasonably be regarded as being intended to:

(i) intimidate the public or a section of the public; or

(ii) influence or compel the Government of Malaysia or the Government of any State in Malaysia, any other government, or any international organization to do or refrain from doing any act.

[9] An offence under s. 130G(a) of the Code is one of the offences relating to terrorism referred to in Chapter VIA of the Code. Offences under Chapter VIA of the Code are classified as "security offences" by virtue of s. 2 of the SOSMA.

[10] SOSMA is an Act of Parliament enacted pursuant to art. 149 of the Federal Constitution ('the Constitution'). The long title to the Act expressly states that it is, "An Act to provide for special measures relating to security offences for the purpose of maintaining public order and security and for connected matters". By reason of s. 2 of the SOSMA, a person charged for committing a security offence will be tried according to the procedures as laid down in SOSMA. It must be noted that SOSMA merely regulates the trial of security offences. It does not create the said offences. Security offences are offences under Chapters VI and VIA of the Code and punishable under the said Code.

[11] When the case was called up before us, learned counsel for the first and third respondents objected to the hearing of the appeal on the ground that the second respondent was absent. It was submitted that the appeal should be heard in the presence of all the respondents in order to avoid any possible conflict of decisions by different panels of this court. The appellant insisted on proceeding with the appeal as there was no foreseeable likelihood of securing the presence of the second respondent who could not be traced after she was acquitted of the charge against her. Attempts to execute the warrant of arrest against the second respondent were unsuccessful.

[12] After hearing submissions from both parties, we ruled that we could proceed with the appeal against the respondents before us in absence of the second respondent. The appeal in respect of the second respondent could be heard separately after the execution of the warrant of arrest against her. There is no rule of law that the appeal against the first and third respondents cannot proceed in absence of the second respondent. Any further adjournment of the appeal would result in the respondents being held in custody longer than necessary as s. 13 of the SOSMA states that no bail shall be granted to a person charged with a security offence.

[13] The application to set aside and/quash or stay the charges permanently against the respondents is based on three grounds. Firstly, the charges against them are defective, confusing, ambiguous and thus do not disclose any offence in law. Secondly, the charges against them are made *mala fide*, baseless, frivolous, vexatious and an abuse of the process of court. Thirdly SOSMA is unconstitutional and enacted contrary to arts. 149, 5 and/or 8 of the Constitution.

[14] Before the High Court, the appellant conceded that the court has inherent power to set aside and/quash or stay the charges against the respondents on the grounds of *mala fide* or that they are oppressive or an abuse of the process of court. (*Dato' Seri Anwar Ibrahim v. PP* [2010] 9 CLJ 625; [2010] 6 MLJ 538, *Karpal Singh & Anor v. PP* [1991] 2 CLJ 1458; [1991] 1 CLJ (Rep) 183; [1991] 2 MLJ 544). On the first ground, the High Court held and correctly, that it has inherent power to set aside and/quash or stay the charges permanently, "to prevent an oppressive and *mala fide* prosecution, abuse of its process and to undo wrong in the course of administration of criminal justice". As for the third ground, it is clear from the notes of proceedings before the High Court that learned counsel for the respondents did not dispute the constitutionality of SOSMA which was passed pursuant to art. 149 of the Constitution. Thus the High Court did not in its grounds of judgment decide on this issue.

[15] The crux of the respondents' contention is that the respondents are charged for promoting an act of terrorism and that act may reasonably be regarded as being intended as a threat to the members of public in Syria and not in Malaysia. It is the contention of the respondents that SOSMA was enacted pursuant

to art. 149 of the Constitution to deal with action or threat committed within Malaysia by any substantial body of persons from inside or outside Malaysia. Article 149 states:

> 149. (1) If an Act of Parliament recites that action has been taken or threatened by any substantial body of persons, whether **inside** or **outside** the Federation:
>
> (a) to cause, or to cause a substantial number of citizens to fear, organized violence against persons or property; or
>
> (b) to excite disaffection against the Yang di-Pertuan Agong or any Government in Federation; or
>
> (c) to promote feelings of ill-will and hostility between different races or other classes of the population likely to cause violence; or
>
> (d) to procure the alteration, otherwise than by lawful means, of anything by law established; or
>
> (e) which is prejudicial to the maintenance or the functioning of any supply or service to the public or any class of the public in the Federation or any part thereof; or
>
> (f) which is prejudicial to public order in, or the security of, the Federation or any part thereof,
>
> any provision of that law designed to stop or prevent that action is valid notwithstanding that it is inconsistent with any of the provisions of Article 5, 9, 10 or 13, or would apart from this Article be outside the legislative power of Parliament; and Article 79 shall not apply to a Bill for such an Act or any amendment to such a Bill. (emphasis added).

[16] Thus, while art. 149 of the Constitution empowers the legislature to pass an Act of Parliament to deal with action taken or threat by any substantial body of persons from within or outside Malaysia, it does not empower Parliament to legislate or make laws meant to deal with action or threat by any substantial body of persons committed outside Malaysia. As the charges against the respondents specifically refer to terrorist act against members of public in Syria and not in Malaysia the said charges are thus defective, bad in law and do not disclose any offence under s. 130G(a) of the Penal Code.

[17] It follows that the special measures provided in SOSMA relating to trial of a security offence under s. 130G(a) of the Penal Code are not applicable for trial of the respondents. It is an abuse

of process of court to charge the respondents for security offences under s. 130G(a) of the Code and apply the provisions in SOSMA for the trial of the respondents.

[18] The High Court agreed with the submissions of counsel for the respondents that the charges against them were related to acts of terrorism committed outside Malaysia, ie, in Syria. It held the view that SOSMA which was enacted pursuant to art. 149 of the Constitution, which is meant to deal with action or threat committed within Malaysia by any substantial body of persons from within or outside Malaysia, clearly does not apply to the trial of the respondents for offences relating to acts of terrorism committed outside Malaysia. The High Court ruled that should the prosecution proceed with the said charges against the respondents by invoking the provisions in SOSMA it would be an abuse of the process of court. On those grounds, the High Court set aside and/quashed or stayed permanently the charges against the respondents and ordered them to be acquitted and discharged.

[19] For convenience, we reproduce paras. 22(b) and (e) of the judgment of learned judge which contained His Lordship's reasoning in allowing the application by the respondents:

> (b) Mahkamah ini berpuas hati dan bersetuju dengan hujahan oleh peguam bela bagi pihak Pemohon-Pemohon di mana terdapat merit dalam hujahan yang diutarakan oleh pihak peguam bela mengenai isu berkaitan dengan pertuduhan dan pemakaian SOSMA yang digubal di bawah Perkara 149 Perlembagaan Persekutuan. Adalah dipersetujui bahawa Perkara 149 Perlembagaan Persekutuan hanyalah terpakai bagi maksud ancaman keganasan yang ditujukan kepada keselamatan dalam negeri Malaysia oleh orang atau sebilangan orang yang sama ada berada di dalam mahu pun di luar negara. Oleh sebab pertuduhan-pertuduhan yang dikenakan terhadap Pemohon-Pemohon adalah melibatkan **keganasan yang berlaku di luar negara Malaysia** iaitu di negara Syria, maka pada pandangan Mahkamah ini keadaan tersebut tidak tertakluk di bawah ruang lingkup atau skop pemakaian Perkara 149 Perlembagaan Persekutuan. Oleh itu SOSMA yang digubal di bawah Perkara 149 Perlembagaan Persekutuan pada pandangan Mahkamah ini tidak boleh digunapakai sebagai prosedur dalam perbicaraan bagi membuktikan pertuduhan-pertuduhan yang telah dihadapkan terhadap Pemohon-Pemohon di dalam kes ini. Jika ini dilakukan, ia akan membawa makna bahawa di dalam kes terhadap Pemohon-Pemohon di sini, SOSMA telah digunapakai secara *ultra vires* Perkara 149 Perlembagaan

Persekutuan itu sendiri. Perkara ini tidak sewajarnya berlaku. Mahkamah ini tidak bersetuju dengan hujahan Tuan TPR yang bijaksana bahawa SOSMA mempunyai *extra territorial application* atau *extra territorial jurisdiction*, sama seperti KK apabila melibatkan warganegara atau harta benda kepunyaan warganegara Malaysia;

(e) Sekiranya pihak Responden/Pendakwaan meneruskan dengan pendakwaan terhadap Pemohon-Pemohon atas pertuduhan-pertuduhan yang seperti sedia ada dengan menggunapakai prosedur diperuntukkan di bawah SOSMA, Mahkamah ini berpandangan bahawa ia adalah satu penyalahgunaan proses Mahkamah dan Mahkamah ini sewajarnya bertindak dengan kuasa yang sedia ada, menghalang pihak Responden/ Pendakwaan daripada meneruskan dengan pendakwaan terhadap Pemohon-Pemohon atas pertuduhan-pertuduhan di dalam keadaan kes ini. (emphasis added).

(There are no paragraphs (c) and (d) in the grounds of judgment).

[20] In our judgment, the High Court had clearly erred and misconceived the charges against the respondents. The charge against the first respondent is for promoting a terrorist act between 1 August 2012 and 20 October 2012 at a house bearing address DL11, Taman Bukit Ampang, Lorong Mutiara 2, Lembah Jaya Ampang, Selangor with the intention of advancing an ideological cause and that such act can reasonably be regarded as being a threat to the members of public in Syria.

[21] The third respondent is charged with abetting the first respondent for the commission of the said offence at the same place and time, in Malaysia. The charges against the respondents are therefore in respect of acts of terrorism committed within Malaysia. Be that as it may, s. 4 of the Penal Code clearly states that any offence under Chapters VI and VIA of the Code include offence done outside Malaysia. Section 130B(5)(b) of the Code states that, 'a reference to the public includes a reference to the public of a country or territory other than Malaysia'.

[22] Learned counsel for the respondents conceded before us that the charges against the respondents refer to the commission of security offences committed within Malaysia. Learned counsel also conceded that the threat to the security of Malaysia may come from within or outside Malaysia.

[23] An act of terrorism is a transnational phenomenon. It has no territorial limits. It transcends national borders. For instance, an act of terrorism may be planned or hatched within Malaysia with

an intention to execute it outside Malaysia. The intention of SOSMA is, among others, to prevent Malaysia from being used as a terrorist haven. S. Rajendra Babu and GP Mathur JJ in *People's Union For Civil Liberties & Anor v. Union of India* AIR 2004 SC 456 aptly describe acts of terrorism as follows:

> The terrorist threat that we are facing is now on an unprecedented global scale. Terrorism has become a global threat with global effects. It has become a challenge to the whole community of civilized nations. Terrorist activities in one country take on a transnational character, carrying out attacks across one border, receiving funding from private parties or a government across another, and procuring arms from multiple sources. Terrorism in a single country can readily become a threat to regional peace and security owing to its spillover effects. It is therefore difficult in the present context to draw a sharp distinction between domestic and international terrorism. Many happenings in the recent past caused the international community to focus on the issue of terrorism with renewed intensity. The Security Council unanimously passed resolutions 1368 (2001) and 1373 (2001); the General Assembly adopted resolutions 56/1 by consensus, and convened a special session. All these resolutions and declarations *inter alia* call upon member states to take necessary steps to 'prevent and suppress terrorist acts'. India is a party to all these operation among nations. It has thus become our international obligation also to pass necessary laws to fight terrorism.

[24] In our judgment s. 2 the of SOSMA makes it clear that the procedure laid down in SOSMA apply to trial of any person charged with committing any security offence under Chapter VIA of the Code. The learned judge therefore erred in holding that it would be an abuse of the process of court to invoke the provisions in SOSMA for the purpose of trial of the respondents for security offences under s. 130G(a) or s. 130G(a) read with s. 109 of the Code.

[25] For the aforesaid reasons, we allowed the appeal by the Public Prosecutor and set aside all the orders of the High Court. We made a further order that the respondents' case be remitted to the High Court, Shah Alam for the said court to set the dates for trial.